



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTORNEY DOCKET NO. 049212-0102

Applicants: Bruce BENT et al.
Title: MONEY FUND BANKING SYSTEM
Appl. No.: 10/825,440 Reissue
Filing Date: 04/14/2004
Examiner: Jagdish Patel
Art Unit: 3693
Confirmation Number: 8474

INFORMATION DISCLOSURE STATEMENT
UNDER 37 CFR §1.56

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith on Form PTO/SB/08 is a listing of documents known to Applicants in order to comply with Applicants' duty of disclosure pursuant to 37 CFR §1.56.

A copy of each non-U.S. patent document and each non-patent document is being submitted to comply with the provisions of 37 CFR §1.97 and §1.98.

The submission of any document herewith, which is not a statutory bar, is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicants do not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima facie* art reference against the claims of the present application.

TIMING OF THE DISCLOSURE

The listed documents are being submitted in compliance with 37 CFR §1.97(b), concurrently with the filing of a Request for Continued Examination (RCE) application

RELEVANCE OF EACH DOCUMENT

All of the documents are in English.

Applicants respectfully request that each listed document be considered by the Examiner and be made of record in the present application and that an initialed copy of Form PTO/SB/08 be returned in accordance with MPEP §609.

LITIGATION NOTICE AND STATEMENT

This comprises a notice of litigation provided pursuant to 37 C.F.R. 1.178(b). Applicants' representative was notified by the firm of Amster, Rothstein & Ebenstein LLP, that on Tuesday, April 14, 2009, the Island IP Parties and an affiliate Intersweep LLC, brought a lawsuit to enforce U.S. Patent No. 7,519,551 (a continuation-in-part of U.S. Patent No. 6,374,231 patent currently in reissue and a continuation-in-part of serial no. 09/677,535) against several accused infringers in the U.S. District Court for the Southern District of New York, case no. 09 CV 3750 (**IDS Item L16**).

A separate suit was filed by Promontory Interfinancial Network, LLC, ("Promontory"), one of the defendants, in the suit to enforce U.S. Patent No. 7,519,551, on the same day, April 14, 2009, in the U.S. District Court for the Eastern District of Virginia. The suit in the Eastern District of Virginia against the Island IP Parties relates to U.S. Patent No. 7,519,551, with counts of non-infringement, invalidity, unenforceability (**IDS Item L17**). On April 15, 2009, Promontory filed an amended complaint adding Intraspew as a defendant (**IDS Items L18**).

As noted in the Litigation Notice filed on April 3, 2009, with respect to application serial no. 10/071,053, the Virginia complaint filed by Promontory Interfinancial Network,

LLC, indicated that Bruce Bent II, one of the inventors of the patents and applications, had made comments about a new Merrill Lynch product in the article On Wall Street on November 1, 2000. Upon further inquiry, Mr. Bent, again stated that he had never seen the documents disclosed by the defendants attorney, but did state that he was aware of the Merrill Lynch product. Accordingly, some information in the specific documents, L1 and L2, in the IDS of March 3, 2009, for 10/071,053, was known to applicants more than 3 months before disclosure of those particular documents in the March 3, 2009 IDS that was not considered by the examiner, making the certification arguably incorrect in serial no. 10/071,053. However, that information had been previously disclosed more than 2 years earlier at least in items D11 and D15 in the IDS of October 20, 2006 filed in application serial no. 10/071,053, that was considered by the examiner.

In the present application, the references identified by the attorney for Promontory were disclosed in the IDS of March 23, 2009, K10 and K11. The same situation applies with respect to the certification in the present case. The certification under per 37 CFR 1.97, included in the March 23, 2009 IDS for the present case is arguably incorrect. Accordingly, applicants are resubmitting those Promontory-identified references for reconsideration in the IDS submitted with this filing as Items L50 and L51. The cumulative references disclosed previously disclosed are C32 and C36, in the IDS of October 20, 2006.

Please see the earlier Litigation Notice filed on April 2, 2009, for details on various allegations.

Although Applicants believe that no fee is required, the Commissioner is hereby authorized to charge any additional fees which may be due to Deposit Account No. 19-0741.

Respectfully submitted,

May 12, 2009


Date

FOLEY & LARDNER LLP

Customer Number: 22428

Telephone: (202) 672-5485

Facsimile: (202) 672-5399



William T. Ellis
Attorney for Applicant
Registration No. 26,874